



Newmont Mining Corporation  
1700 Lincoln Street  
Denver, CO 80203  
Phone 303.863.7414  
Facsimile 303.837.5837  
www.newmont.com

November 6, 2002

Thanne Cox  
U.S. Environmental Protection Agency  
Region 9  
Mail Code ORC-3  
75 Hawthorne Street  
San Francisco, California 94105

Re: *Response to CERCLA Section 104(e) Request for Information  
Relating to the Gray Eagle Mine Site, Siskiyou County, California*

Dear Ms. Cox:

This letter constitutes Newmont USA Limited's ("Newmont") response to the EPA's September 3, 2002 letter requesting information pursuant to Section 104(e) of CERCLA for the Gray Eagle Mine Site, located near Happy Camp, California, a copy of which is attached hereto as Exhibit A. This response is supplemental to Newmont's October 9, 1998 response to EPA's September 9, 1998 104(e) request.

Newmont disagrees with the EPA's suggestion that Newmont was an operator of the Gray Eagle Mine Site, and is therefore a PRP under Section 107(a) of CERCLA. As summarized in Newmont's October 9, 1998 response, Newmont was a shareholder in the Gray Eagle Copper Company; however, it never owned or operated the Gray Eagle Mine Site. Consequently, Newmont does not have any liability under CERCLA for conditions at the site, and the EPA's demand for Newmont to pay the response costs it has allegedly incurred at the site is unfounded.

Newmont objects to the EPA's questions 4 through 14 set forth in Attachment D in that they exceed the scope of information that the EPA may request under Section 104(e) of CERCLA. Section 104(e) limits the EPA to requesting information relevant to:

- A. The identification, nature, and quantity of materials which have been, or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant, or contaminant at or from a vessel or facility.

- C. Information relating to the ability of a person to pay for, or to perform a cleanup.

42 U.S.C. § 9604(e)(2). Newmont also objects to the extent these questions call for a legal conclusion or seek privileged information. Nevertheless, subject to, and without waiving those objections, and subject to the additional objections stated below, Newmont responds to the questions set forth in Attachment D to the EPA's September 3, 2002 letter, as follows:

1. The person answering these questions on behalf of Newmont is Britt D. Banks, Esq., Vice President, General Counsel and Secretary, Newmont USA Limited, 1700 Lincoln Street, Suite 2800, Denver, CO 80203.

2. The following persons were consulted in preparation of these answers:

David Faley, Director of Lands  
Charlene Gendill, Exploration Librarian  
Ardis Young, Paralegal  
Kim Wise, Paralegal  
Newmont USA Limited  
1700 Lincoln Street, Suite 2800  
Denver, CO 80203

Scott W. Hardt  
John Rediker  
Temkin Wielga & Hardt, LLP  
1900 Wazee Street, Suite 303  
Denver, CO 80202

3. Newmont objects to Question 3 as being overly broad and unduly burdensome in that it requests Newmont to identify all documents examined in the preparation of its answers. Newmont has reviewed numerous files and indices in an effort to locate responsive information. The majority of such files and indices did not contain any responsive or relevant information. Subject to, and without waiving Newmont's objections, Newmont states that it has found documents in its possession that are responsive to some of EPA's Questions, as referenced in the responses thereto. A true and accurate copy of each such document is enclosed herewith.

4. Newmont objects to Question 4 as being vague, ambiguous and overly broad in requesting information concerning any "related entity of Newmont." Subject to, and without waiving its objections, Newmont states that William B. Thompson founded Newmont's predecessor company, Newmont Mining Corporation, in 1921 and died June 27, 1930. Mr. Thompson was Chairman of the Board and a Director of Newmont Mining

Corporation from at least 1925 through 1929, as documented in the attached Annual Reports for those years. Newmont currently has no knowledge as to whether Mr. Thompson held any other positions with other entities. Newmont currently has no knowledge relating to Edwin Holter's employment history.

5. Newmont currently has no knowledge as to who or what entities were stockholders or officers of Mason Valley Mines Company.

6. Newmont currently has no knowledge concerning Mason Valley Mines Company's alleged sale of stock in the Gray Eagle Copper Company, nor the purchasers of such stock. Newmont has included annual reports from 1930 to 1932, 1934 to 1940, and 1946 to 1947 (Newmont previously provided annual reports for 1933 and 1941 to 1945) documenting Newmont's ownership of varying numbers of shares in the Gray Eagle Copper Company.

7. Newmont currently has no knowledge concerning the sale or disposition of the assets of the Mason Valley Mines Company.

8. Newmont objects to Question 8 as being vague, ambiguous and overly broad in requesting all documents "related to" the Metals Reserve Company, the Gray Eagle Copper Company and the Gray Eagle Mine. Subject to, and without waiving its objections, Newmont has attached all contracts, agreements and correspondence it has found in its possession, not previously provided to EPA, between the referenced entities and any other documents in its possession discussing or referencing the Gray Eagle Mine or the Gray Eagle Copper Company.

9. Newmont has not found any agreements between Newmont and the Gray Eagle Mine and/or Gray Eagle Copper Company regarding transactions alleged in EPA's Question 9.

10. Newmont currently has no knowledge concerning any transfer of equipment or other property from the Empire Star Mine to the Gray Eagle Mine, from 1940 through 1945, nor the disposition of property upon the sale of the Gray Eagle Mine.

11. Newmont has not found any sales agreement for the sale of the Gray Eagle Mine in 1945, or any correspondence surrounding the alleged sale. Newmont is providing an Indenture, dated October 11, 1945, whereby the Gray Eagle Copper Company conveyed to Lester R. Flanigan and Bertha Flanigan certain property "commonly known as the Gray Eagle Copper Mine."

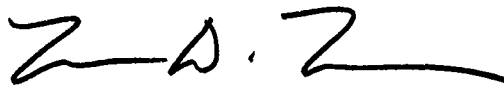
12. Newmont currently has no knowledge of any mergers between Gray Eagle Copper Company and Newmont, or any subsidiary, predecessor or related entity.

Thanne Cox  
U.S. Environmental Protection Agency  
11/6/2002  
Page 4

13. Newmont currently has no knowledge concerning the corporate officers of Gray Eagle Copper Company.

14. Newmont objects to Question 14 as being vague and ambiguous in requesting correspondence involving any "related entity of Newmont." Subject to, and without waiving its objections, Newmont states that it has enclosed all correspondence that it has found in its possession between Newmont, or any subsidiary or predecessor, and the identified entities concerning the Gray Eagle Mine Site.

Sincerely,

A handwritten signature in black ink, appearing to read "B.D. Banks", with a stylized flourish at the end.

Britt D. Banks  
Vice President, General Counsel  
and Secretary for  
Newmont USA Limited